

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:17-cv-09184-VEC**

Waterkeeper Alliance, Inc. et al v. U.S. Environmental
Protection Agency
Assigned to: Judge Valerie E. Caproni
Cause: 05:552 Freedom of Information Act

Date Filed: 11/22/2017
Date Terminated: 07/09/2019
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Waterkeeper Alliance, Inc.

represented by **Mychal Robert Ozaeta**
Earthjustice (PA)
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ATTORNEY TO BE NOTICED

Thomas Joseph Cmar
Earthjustice
311 S. Wacker Drive, Suite 1400
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ATTORNEY TO BE NOTICED

Plaintiff

Sierra Club

represented by **Mychal Robert Ozaeta**
(See above for address)
ATTORNEY TO BE NOTICED

Thomas Joseph Cmar
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Clean Water Action

represented by **Mychal Robert Ozaeta**
(See above for address)
ATTORNEY TO BE NOTICED

Thomas Joseph Cmar
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Environmental Integrity Project

represented by **Mychal Robert Ozaeta**
(See above for address)
ATTORNEY TO BE NOTICED

Thomas Joseph Cmar
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

U.S. Environmental Protection Agency

represented by

Anthony Jan-Huan Sun
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/22/2017	<u>1</u>	COMPLAINT against U.S. Environmental Protection Agency. (Filing Fee \$ 400.00, Receipt Number 0208-14397691) Document filed by Waterkeeper Alliance, Inc., Environmental Integrity Project, Clean Water Action, Sierra Club. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H)(Cmar, Thomas) (Entered: 11/22/2017)
11/22/2017	<u>2</u>	CIVIL COVER SHEET filed. (Cmar, Thomas) (Entered: 11/22/2017)
11/22/2017	<u>3</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Waterkeeper Alliance, Inc..(Cmar, Thomas) (Entered: 11/22/2017)
11/22/2017	<u>4</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Sierra Club.(Cmar, Thomas) (Entered: 11/22/2017)
11/22/2017	<u>5</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Clean Water Action.(Cmar, Thomas) (Entered: 11/22/2017)
11/22/2017	<u>6</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Environmental Integrity Project.(Cmar, Thomas) (Entered: 11/22/2017)
11/22/2017	<u>7</u>	REQUEST FOR ISSUANCE OF SUMMONS as to U.S. Environmental Protection Agency, re: <u>1</u> Complaint,. Document filed by Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc.. (Cmar, Thomas) (Entered: 11/22/2017)
11/22/2017	<u>8</u>	MOTION for Mychal Robert Ozaeta to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number 0208-14397876. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc.. (Attachments: # <u>1</u> Declaration of Mychal R. Ozaeta, # <u>2</u> Proposed Order)(Ozaeta, Mychal) (Entered: 11/22/2017)
11/22/2017		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>8</u> MOTION for Mychal Robert Ozaeta to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number 0208-14397876. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 11/22/2017)
11/27/2017		***NOTICE TO ATTORNEY REGARDING CIVIL. CASE OPENING STATISTICAL ERROR CORRECTION: Notice to attorney Thomas Joseph Cmar. The following case opening statistical information was erroneously selected/entered: County code New York. The following correction(s) have been made to your case entry: the County code has been modified to XX Out of State. (pc) (Entered: 11/27/2017)
11/27/2017		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Valerie E. Caproni. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (pc) (Entered: 11/27/2017)
11/27/2017		Magistrate Judge Sarah Netburn is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed

		before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (pc) (Entered: 11/27/2017)
11/27/2017		Case Designated ECF. (pc) (Entered: 11/27/2017)
11/27/2017	<u>9</u>	ELECTRONIC SUMMONS ISSUED as to U.S. Environmental Protection Agency. (pc) (Entered: 11/27/2017)
11/27/2017	<u>10</u>	NOTICE OF INITIAL PRETRIAL CONFERENCE: Initial Conference set for 12/22/2017 at 10:00 AM in Courtroom 443, 40 Centre Street, New York, NY 10007 before Judge Valerie E. Caproni. (Signed by Judge Valerie E. Caproni on 11/27/2017) (kgo) (Entered: 11/27/2017)
11/28/2017	<u>11</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>8</u> Motion for Mychal R. Ozaeta to Appear Pro Hac Vice. (Signed by Judge Valerie E. Caproni on 11/28/2017) (kgo) (Entered: 11/28/2017)
12/12/2017	<u>12</u>	FILING ERROR – DEFICIENT DOCKET ENTRY (SEE <u>14</u> Summons Returned Executed (FOIA CASE) – SUMMONS RETURNED EXECUTED (FOIA CASE) Summons and Complaint, served. U.S. Environmental Protection Agency served on 11/27/2017, answer due 12/27/2017. Service was made by Mail. Document filed by Waterkeeper Alliance, Inc.; Environmental Integrity Project; Clean Water Action; Sierra Club. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Cmar, Thomas) Modified on 12/13/2017 (db). (Entered: 12/12/2017)
12/13/2017	<u>13</u>	NOTICE OF APPEARANCE by Anthony Jan–Huan Sun on behalf of U.S. Environmental Protection Agency. (Sun, Anthony) (Entered: 12/13/2017)
12/13/2017	<u>14</u>	SUMMONS RETURNED EXECUTED (FOIA CASE) Summons and Complaint, served. U.S. Environmental Protection Agency served on 11/30/2017, answer due 1/2/2018. Service was made by Mail. Document filed by Waterkeeper Alliance, Inc.; Environmental Integrity Project; Clean Water Action; Sierra Club. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Cmar, Thomas) (Entered: 12/13/2017)
12/14/2017	<u>15</u>	JOINT LETTER addressed to Judge Valerie E. Caproni from Thomas Cmar, Mychal R. Ozaeta, and Anthony J. Sun dated 12/14/2017 re: In Response to Court's November 27, 2017 Notice of Initial Pretrial Conference. Document filed by Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc..(Cmar, Thomas) (Entered: 12/14/2017)
12/21/2017	<u>16</u>	ANSWER to <u>1</u> Complaint,. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 12/21/2017)
12/22/2017		Minute Entry for proceedings held before Judge Valerie E. Caproni: Initial Pretrial Conference held on 12/22/2017. Order to follow. (Court Reporter Jennifer Thun) (Brantley, Michael) (Entered: 12/22/2017)
12/22/2017	<u>17</u>	ORDER: IT IS HEREBY ORDERED that, for the reasons stated at the conference, Defendant shall make rolling productions of responsive documents to Plaintiffs at the end of each month from February 2018 to May 2018, such that productions are scheduled for February 28, 2018; March 31, 2018; April 30, 2018; and May 31, 2018. IT IS FURTHER ORDERED that, for the reasons stated at the conference, Defendant shall inform the Court by letter dated the first of each month, beginning with February 1, 2018, as to its progress in reviewing documents, preparing for productions, and making productions to Plaintiffs. (Signed by Judge Valerie E. Caproni on 12/22/2017) (ap) (Entered: 12/22/2017)
02/01/2018	<u>18</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 2/1/2018 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 02/01/2018)
03/01/2018	<u>19</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 3/1/2018 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 03/01/2018)
03/30/2018	<u>20</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 3/30/2018 re: status update. Document filed by U.S. Environmental Protection

		Agency.(Sun, Anthony) (Entered: 03/30/2018)
05/01/2018	<u>21</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 5/1/2018 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 05/01/2018)
05/23/2018	<u>22</u>	CONSENT LETTER MOTION for Extension of Time addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 5/23/2018. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 05/23/2018)
05/23/2018	<u>23</u>	ORDER granting <u>22</u> Letter Motion for Extension of Time. Application GRANTED. The Government is ordered to provide a status update after the May 31, 2018 and June 21, 2018 productions on June 1, 2018 and June 22, 2018, respectively. SO ORDERED. (Signed by Judge Valerie E. Caproni on 5/23/2018) (anc) (Entered: 05/23/2018)
06/01/2018	<u>24</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 6/1/2018 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 06/01/2018)
06/22/2018	<u>25</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 6/22/2018 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 06/22/2018)
06/26/2018	<u>26</u>	MEMO ENDORSEMENT on re: <u>25</u> Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: The parties are ordered to update the Court on the status of the matter by letter dated no later than August 6, 2018. (Signed by Judge Valerie E. Caproni on 6/26/2018) (kgo) (Entered: 06/26/2018)
08/06/2018	<u>27</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 8/6/2018 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 08/06/2018)
08/07/2018	<u>28</u>	MEMO ENDORSEMENT on re: <u>27</u> Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: Application GRANTED. (Signed by Judge Valerie E. Caproni on 8/7/2018) (kgo) (Entered: 08/07/2018)
08/30/2018	<u>29</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 8/30/2018 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 08/30/2018)
08/30/2018	<u>30</u>	MEMO ENDORSEMENT: on re: (29 in 1:17-cv-09184-VEC) Letter filed by U.S. Environmental Protection Agency, (37 in 1:17-cv-07400-VEC) Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: Application GRANTED. SO ORDERED. (Signed by Judge Valerie E. Caproni on 8/30/2018) (ama) (Entered: 08/30/2018)
10/12/2018	<u>31</u>	LETTER addressed to Judge Valerie E. Caproni from Thomas Cmar and Mychal Ozaeta, Counsel for Plaintiffs, dated 10/12/2018 re: Status Update. Document filed by Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc..(Cmar, Thomas) (Entered: 10/12/2018)
10/12/2018	<u>32</u>	MEMO ENDORSEMENT on re: (31 in 1:17-cv-09184-VEC) Letter, filed by Environmental Integrity Project, Waterkeeper Alliance, Inc., Clean Water Action, Sierra Club, (39 in 1:17-cv-07400-VEC) Letter, filed by Environmental Integrity Project, Waterkeeper Alliance, Inc., Clean Water Action, Sierra Club. ENDORSEMENT: Application GRANTED. SO ORDERED. (Signed by Judge Valerie E. Caproni on 10/12/2018) (ne) (Entered: 10/12/2018)
11/30/2018	<u>33</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 11/30/2018 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 11/30/2018)
11/30/2018	<u>34</u>	MEMO ENDORSEMENT: on re: (33 in 1:17-cv-09184-VEC) Letter filed by U.S. Environmental Protection Agency, (41 in 1:17-cv-07400-VEC) Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: Application GRANTED. SO ORDERED. (Signed by Judge Valerie E. Caproni on 11/30/2018) (ama) (Entered: 11/30/2018)

01/09/2019	<u>35</u>	NOTICE OF CHANGE OF ADDRESS by Thomas Joseph Cmar on behalf of Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc.. New Address: Earthjustice, 1010 Lake Street, Suite 200, Oak Park, IL, United States 60301, 3122579338. (Cmar, Thomas) (Entered: 01/09/2019)
02/08/2019	<u>36</u>	LETTER addressed to Judge Valerie E. Caproni from Thomas Cmar and Mychal Ozaeta dated Feb. 8, 2019 re: status update. Document filed by Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc..(Cmar, Thomas) (Entered: 02/08/2019)
02/11/2019	<u>37</u>	MEMO ENDORSEMENT on re: (36 in 1:17-cv-09184-VEC) Letter filed by Environmental Integrity Project, Waterkeeper Alliance, Inc., Clean Water Action, Sierra Club, (45 in 1:17-cv-07400-VEC) Letter filed by Environmental Integrity Project, Waterkeeper Alliance, Inc., Clean Water Action, Sierra Club. ENDORSEMENT: Application GRANTED. (Signed by Judge Valerie E. Caproni on 2/8/2019) (mro) (Entered: 02/11/2019)
04/05/2019	<u>38</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 4/5/2019 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 04/05/2019)
04/05/2019	<u>39</u>	MEMO ENDORSEMENT: on re: (38 in 1:17-cv-09184-VEC) Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: Application Granted. SO ORDERED. (Signed by Judge Valerie E. Caproni on 4/05/2019) (ama) (Entered: 04/05/2019)
05/03/2019	<u>40</u>	LETTER addressed to Judge Valerie E. Caproni from Anthony J. Sun dated 5/3/2019 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 05/03/2019)
05/03/2019	<u>41</u>	MEMO ENDORSEMENT: on re: (49 in 1:17-cv-07400-VEC) Letter filed by U.S. Environmental Protection Agency, (40 in 1:17-cv-09184-VEC) Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: Application GRANTED. SO ORDERED. (Signed by Judge Valerie E. Caproni on 5/03/2019) (ama) (Entered: 05/03/2019)
06/03/2019	<u>42</u>	LETTER addressed to Judge Valerie E. Caproni from AUSA Anthony J. Sun dated 6/3/2019 re: status update. Document filed by U.S. Environmental Protection Agency.(Sun, Anthony) (Entered: 06/03/2019)
06/04/2019	<u>43</u>	MEMO ENDORSEMENT on re: (51 in 1:17-cv-07400-VEC) Letter filed by U.S. Environmental Protection Agency, (42 in 1:17-cv-09184-VEC) Letter filed by U.S. Environmental Protection Agency. ENDORSEMENT: Application GRANTED. The parties must submit a further joint status update in these cases no later than July 8, 2019. In their letter, the parties must propose a schedule for briefing any motion for attorney's fees and costs. Absent extraordinary circumstances, the Court will not entertain further requests to defer setting such a schedule. (Signed by Judge Valerie E. Caproni on 6/3/2019) (tro) (Entered: 06/04/2019)
06/26/2019	<u>44</u>	NOTICE OF CHANGE OF ADDRESS by Thomas Joseph Cmar on behalf of Waterkeeper Alliance, Inc.. New Address: Earthjustice, 311 S. Wacker Drive, Suite 1400, Chicago, Illinois, 60606, 3125002191. (Cmar, Thomas) (Entered: 06/26/2019)
07/08/2019	<u>45</u>	PROPOSED STIPULATION AND ORDER. Document filed by U.S. Environmental Protection Agency. (Sun, Anthony) (Entered: 07/08/2019)
07/09/2019	<u>46</u>	STIPULATION AND ORDER OF SETTLEMENT AND DISMISSAL. IT IS HEREBY STIPULATED AND AGREED, by and between the parties, as follows: The documents produced by EPA fully settle any and all claims Plaintiffs now have or may hereafter acquire against EPA or the United States of America ("United States"), or any department, agency, officer, or employee of EPA and/or the United States, related to or arising out of Plaintiffs' FOIA request at issue in this action. As soon as reasonably practicable, EPA shall pay to Plaintiffs via electronic funds transfer to the IOLTA account of Plaintiffs' counsel the sum of FOURTEEN THOUSAND DOLLARS AND ZERO CENTS (\$14,000.00) in attorneys' fees and litigation costs, pursuant to 5 U.S.C. § 552(a)(4)(E), which sum Plaintiffs agree to accept in complete satisfaction of any and all claims by Plaintiffs for attorneys' fees, expenses, costs, interest, and any other sums related to this litigation. This action is hereby dismissed

		with prejudice, and without costs or fees other than as provided in paragraph 2 of this Stipulation and Order, provided that the Court shall retain jurisdiction for the purpose of enforcing this Stipulation and Order, and as further set forth in this Stipulation and Order of Settlement and Dismissal. So ordered. (Signed by Judge Valerie E. Caproni on 7/8/2019) (rjm) (Entered: 07/09/2019)
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